

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA  
CIVIL COURT DIVISION

STACEY HANEY, individually and as Parent	)	
and Natural Guardian of, HARLEY HANEY,	)	
a minor, and PAIGE HANEY, a minor, and	)	NO. 2012-3534
BETH VOYLES, and JOHN VOYLES, husband	)	
and wife, ASHLEY VOYLES, individually	)	
LOREN KISKADDEN, individual, GRACE	)	
KISKADDEN, individually,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
RANGE RESOURCES – APPALACHIA, LLC.,	)	
et al	)	
	)	
Defendants	)	
	)	
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	)	
STACEY HANEY, individually and as	)	
Parent and Natural Guardian of	)	
HARLEY HANEY, a minor, and PAIGE	)	
HANEY, a minor, and BETH VOYLES,	)	
And JOHN VOYLES, husband and wife,	)	
ASHLEY VOYLES, individually,	)	
LOREN KISKADDEN, individually,	)	
GRACE KISKADDEN, individually,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
SOLMAX INTERNATIONAL, Inc.,	)	
	)	
Defendant.	)	

OPINION AND ORDER

The matter before the Court is a Motion to Quash Subpoenas and for a Protective Order and Award of Counsel Fees filed by the Pittsburgh Post-Gazette. For the reasons set forth below,

the Court hereby GRANTS the Motion in part and QUASHES the Subpoenas to Testify and Notices of Deposition Duces Tecum.

The Pittsburgh Post-Gazette (P-G) filed a Petition to Intervene in order to unseal the record in the above-captioned case. Defendant Range Resources-Appalachia LLC (Range) opposed this motion and filed a response. A hearing on the Motion to Intervene was scheduled for March 25, 2019. Range issued subpoenas and Notice of Deposition Duces Tecum for a corporate designee of the Post-Gazette and for three P-G employees: Sally Stapleton, Managing Editor, David Templeton, Reporter and Don Hopey, Reporter. The P-G filed the Motion to Quash and a Brief in Support of their Motion. Range filed a Response in Opposition to the Motion to Quash and a Memorandum of Law in support of their position.

The Post-Gazette asserts that the testimony and documents that Range seek are not relevant to the issue of unsealing the record in this case and that the information may be obtained by other means. The Post-Gazette claims the information sought is protected by the Pennsylvania Shield Law, which prevents reporters from being required to disclose their source or sources of information. The P-G also asserts that these discovery requests violate the U.S. Constitution's First Amendment "Qualified Reporter's Privilege." Lastly, the P-G asks for counsel fees claiming Range sought this information in bad faith to harass them.

Range asserts that discovery is needed to prepare for the hearing on the Petition to Intervene. They oppose intervention, claiming that it is untimely as it was not filed during the pendency of the case and that it is being sought for an improper purpose. They seek information on those issues and also desire to test the veracity of the statements made in the Petition as to when and how they learned of the sealed records. Range asserts the P-G has not claimed that any sources were confidential and the Pennsylvania Shield Law only protects confidential

sources. The P-G, in response, claims it has no duty to state the sources are confidential; the Pennsylvania Shield Law protects them from revealing any source or reveal information that may lead to the source.

Range seeks to conduct discovery from the entity seeking intervention in this case. The right to discovery is set forth in the Pennsylvania Rules of Civil Procedure Rule 4003.1:

- (a) Subject to the provisions of Rules 4003.2 to 4003.5 inclusive and Rule 4011, a party may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, content, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter.
- (b) It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

Discovery should be liberally allowed and limitations on discovery should be narrowly construed. PECO Energy v. Insurance Co. of N. America, 852 A.2d 1230, 2004 Pa. Super. 221. Discovery is limited to matters that are relevant to the issues involved in the pending action and those matters are not privileged. Pa. R.C.P. Rule 4003.1(c). It is the Court's discretion to determine the parameters.

The Court finds that the discovery requests are not relevant to the issues in this case. Range has asserted that the timing and delay in presenting the Petition to Intervene bars the intervention. The facts are clear: petitions and briefs in this case were docketed and filed under seal in August of 2018, and a Court Order was filed on August 31, 2018 under seal. Thereafter, Praecipes to Settle and Discontinue were filed in September of 2018 as to all Defendants. A Petition to Intervene by the Post-Gazette was filed February 4, 2019. Nothing prevented the P-G from determining the status of the case after it was closed. The delay of four and one-half

months will be considered by the Court when the Petition to Intervene is heard. The reason proffered by Range as to the relevance and necessity to obtain information specifically about when and how P-G learned of the settlement is to support Range's contention that P-G was working in concert with or on the behest of Stacey Haney, one of the Plaintiffs. While that information may be discoverable under a potential action against Plaintiff Haney for violating the terms of the settlement, it is not germane to this case. The case cited by Range, Katz, that supports the proposition that the motive and intent of the intervenor is relevant involves the narrow issue of whether an equitable distribution proceeding should be open to the public. Katz v. Katz, 514 A.2d 1374 (Pa. Super. 1986). Divorce cases are often closed to the public due to the inherently personal nature of the matters presented. This case, on the other hand, has been widely reported upon throughout its seven year life span; as Range indicated, the P-G has published at least 14 articles in the past about this case and the case has been chronicled in a Pulitzer winning book entitled *Between Prosperity and Amity*. Bald assertions of improper motive do not open the doors to discovery.

The Court also finds that the Pennsylvania Shield Law protects the P-G from the discovery demands herein. The Pennsylvania Shield Law states as follows:

- (a) **General rule.** – No person engaged on, connected with, or employed by any newspaper of general circulation or any press association or any radio or television station, or any magazine of general circulation, for the purpose of gathering, procuring, compiling, editing or publishing news, shall be required to disclose the source of any information procured or obtained by such person, in any legal proceeding, trial or investigation before any government unit.

42 Pa. C.S. §5942

The Shield Law must be liberally construed in favor of the news media. Castellani v. Scranton Times, 956 A.2d 937 (Pa. 2008). Under this law, the employees of the newspaper cannot be required to disclose any information that could lead to the disclosure of their sources.

Range argues that the P-G has not established that the sources are confidential and under the holding in Bowden, if the source is not confidential, disclosure is permitted. Commonwealth v. Bowden, 838 A.2d 740 (Pa. 2003). Reliance on Bowden is misplaced; the holding in Bowden is that a known source is not protected under the Shield Law. In Bowden, the newspaper reported on the conversations between a criminal Defendant Tyson, who was on trial for killing an alleged drug dealer Miller. Id. Tyson had discussed the circumstances and background of the killing to Bowden, a reporter of the Philadelphia Inquirer and to another reporter of the same newspaper. Several articles were published quoting Tyson. The prosecutors wanted to call Reporter Bowden to testify as to the statements Tyson made to him for use in impeachment and as substantive evidence of prior inconsistent statements. The Pennsylvania Supreme Court opined that since his identity was not confidential, there was nothing to protect and the reporter was compelled to answer questions as to their conversations. Id. In the case here, the source of the information that the Haney case had been settled and had documents placed under seal, other than the public docket itself, has not been disclosed and is not known. The facts are distinguishable from Bowden.

The information sought – how the P-G discovered the current status of the Haney case – is not crucial for this Court to make its decision as to the Petition to Intervene. Range wants the information to establish Stacey Haney or her agents are the source that provided the P-G with this information. That is too ancillary to the issues in the petition to intervene. While circumstances may exist where the Shield Law may have to yield, those circumstances must be narrowly construed. Castellani, supra. They are not present at this juncture.

Lastly, the P-G seeks an award of counsel fees, alleging that Range sought this discovery in bad faith. The Pennsylvania Rules of Civil Procedure provides “No discovery...shall be

permitted which is sought on bad faith.” R.C.P. Rule 4011(a). The P-G avers “The subpoenas, a brazen and legally abusive attempt to harass and intimidate the Post-Gazette, define obdurate and vexatious conduct.” ¶48 Motion to Quash. The P-G further avers “There is no other logical explanation for the requested discovery other than a campaign of harassment...” ¶43 Motion to Quash. Such bald, vitriolic statements are offensive to this Court. Discovery should be liberally construed and the protections afforded to the press are broad; those concepts clash here. Range offered thoughtful arguments with supportive legal precedent to help persuade the Court. Although the Court ultimately did not accept the position of Range, in no way did the Court find it baseless or misleading. Over the years, I have come across what is purported to be the “Lawyer’s Creed: Mind your Manners, Tell the Truth, Know the Law.” The request for attorney’s fees for discovery requests in this case violates that creed. The request for attorney’s fees is DENIED.

BY THE COURT:

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KATHERINE B. EMERY, PRESIDENT JUDGE

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA

CIVIL COURT DIVISION

STACEY HANEY, individually and as Parent	)	
and Natural Guardian of, HARLEY HANEY,	)	
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Plaintiffs,	)	
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vs.	)	
	)	
SOLMAX INTERNATIONAL, Inc.,	)	
	)	
Defendant.	)	

ORDER

AND NOW, this \_\_\_\_ day of May, 2019, the Motion to Quash is GRANTED and the subpoenas and notices of depositions issued by Range Resources-Appalachia, LLC to Sally

Stapleton, David Templeton and Don Hopey, and to the Post-Gazette Publishing Company are hereby QUASHED. The request for attorney's fees is DENIED.

**A hearing and argument on the Petition to Intervene shall be held on the 28th day of May, 2019 at 1:00 p.m. in Courtroom No. 1.**

BY THE COURT:

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KATHERINE B. EMERY, PRESIDENT JUDGE

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